

CHAPTER 21

CRITERIA FOR GRANTING AN EXCURSION BOAT AND RACETRACK ENCLOSURE GAMING LICENSE

[491—Chapters 20 to 25, relating to Games of Skill, Chance, Raffles and Bingo, transferred to 481—Chapters 100 to 105, 6/14/89 IAB]

491—21.1 to 21.9 Reserved.

491—21.10(99F) In general—excursion boat gaming license. This chapter sets forth criteria which the commission will consider when deciding whether to issue a license to conduct casino gambling on an excursion gambling boat on Iowa jurisdiction bodies of water. The various criteria set forth may not have the same importance in each instance and other factors may present themselves in the consideration of an application or applications for a license. The criteria are not listed in any order of priority.

21.10(1) *Compliance with Iowa Code section 99F.4.* The commission will consider whether or not the applicant is and has been in compliance with the terms and conditions specified in Iowa Code section 99F.4.

21.10(2) *Revenue provided by facility.* The commission will consider the amount of revenue to be provided by the proposed facility to the state and local communities through direct taxation on its operation and indirect revenues from tourism, ancillary businesses, creation of new industry, and taxes on employees and patrons.

21.10(3) *Boat viable and properly financed.* The commission will consider whether the proposed boat is economically viable and properly financed.

21.10(4) *Adequate security.* The commission will consider whether the proposed boat is planned in a manner which provides adequate security for all aspects of its operation and for the people working, visiting, or traveling on the boat.

21.10(5) *Efficient and safe operation.* The commission will consider whether the proposed boat is planned in a manner which promotes efficient and safe operation of all aspects of its facility including, but not limited to, docking facilities, all areas of boat concession areas, and casino management areas.

21.10(6) *Efficient, safe and enjoyable for patrons.* The commission will consider whether the proposed boat is planned in a manner which promotes efficient, safe, and enjoyable use by patrons including, but not limited to, boat structure, parking facilities, concessions, the casino, access to cashier windows, and restrooms.

21.10(7) *Compliance with applicable state and local laws.* The commission will consider whether the proposed boat is in compliance with applicable state and local laws regarding fire, health, construction, zoning, and other similar matters.

21.10(8) *Employ appropriate persons.* The commission will consider whether the applicant will employ the persons necessary to operate the boat in a manner consistent with the needs, safety, and interests of all persons who will be on the boat.

21.10(9) *Population of area boat will serve.* The commission will consider the population of the area to be served by a boat together with location of other boats within and without the state of whatever nature. The commission may engage an independent firm proficient in market feasibility studies in the gaming industry for specific analysis of any application to determine the potential market of any proposed riverboat as well as the impact on existing licensees.

21.10(10) *Community support.* The commission will consider support within the community in which a proposed excursion gambling boat is to be located for the promotion and continuation of excursion gambling boat gambling.

21.10(11) *Character and reputation.* The commission will consider the character and reputation of all persons identified with the ownership and operation of the excursion gambling boat or licensed business, and their capability to comply with the rules of the commission and the Iowa Code.

21.10(12) *Promote gaming industry.* The commission will consider whether the proposed operation would serve to promote the gaming industry in Iowa and provide high gaming integrity in Iowa.

21.10(13) *Economic development.* The commission will consider whether the proposed operation will maximize economic development.

21.10(14) *Tourism.* The commission will consider whether the proposed operation is beneficial to Iowa tourism.

21.10(15) *Employment opportunities.* The commission will consider the number and quality of employment opportunities for Iowans created and promoted by the proposed operation.

21.10(16) *Sale of Iowa products.* The commission will consider how the proposed operation will promote the development and sale of Iowa products.

21.10(17) *Shore development.* The commission will consider the amount and type of shore developments associated with the excursion gambling boat project.

21.10(18) *Body of water.*

a. The commission will consider the proposed route to be taken during the excursion, including the distance the boat will traverse, and any relevant data from the U.S. Army Corps of Engineers or the Iowa department of natural resources on the body of water.

b. The commission will consider whether the body of water is adequate to accommodate any large commercial excursion boats operating in these waters.

c. The commission will consider the type of boats utilizing this body of water, any recreational or commercial uses and the potential impact upon them.

d. The commission will consider any environmental risks the boat poses for the body of water and the consequences if an unforeseen accident or event occurs.

e. The commission will consider what safety concerns cruising presents on this body of water and if safety concerns could result in the failure to meet the cruising requirements.

f. For proposed boats on inland waters, the commission will consider whether the applicant has satisfied all requirements of the department of natural resources including, but not limited to, wake speed restrictions.

g. For proposed boats on inland waters not under the jurisdiction of the U.S. Coast Guard, the commission will consider how the applicant will ensure that the proposed boat will be certified and inspected to meet the standards and criteria on an ongoing basis mandated by the U.S. Coast Guard for boats on waters under its jurisdiction.

21.10(19) *Miscellaneous.* The commission will consider such other factors as may arise in the circumstances presented by a particular application.

491—21.11(99F) Limited number of licenses. If the commission receives applications for excursion gambling boat casinos, all of which cannot be granted in the best interests in the state of Iowa, it will consider which of the applications best promotes the considerations set forth in rule 491—21.10(99F).

21.11(1) *Affirmative responsibility to establish qualifications.* It shall be the affirmative responsibility and continuing duty of each applicant and licensee to produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the applicant's qualifications are in accordance with the Act and commission rules. No application shall be granted to any applicant who fails to prove qualifications for an application.

21.11(2) *Duty to disclose and cooperate.* It shall be the affirmative responsibility and continuing duty of each applicant, licensee, boat operator, and person required to be qualified to provide all information, documentation, and assurances pertaining to qualifications required or requested by the commission and to cooperate with the commission in the performance of its duties. Any refusal by any person or corporate entity to comply with a request for information from the commission or its staff, evidence or testimony shall be a basis for denial, revocation or disqualification. No license shall be granted to any applicant who fails to provide information, documentation and assurances required by or requested by the commission or who fails to reveal any fact material to qualification.

491—21.12(99F) Licensing of a natural person under the age of 18. Rescinded IAB 12/25/91, effective 1/29/92.

491—21.13(99F) In general—racetrack enclosure gaming license.

21.13(1) *Compliance with Iowa Code chapter 99F.* The commission will consider whether or not the applicant is and has been in compliance with applicable provisions of Iowa Code chapter 99F regarding minimum number of racing dates and has designated a portion of the funds from gaming revenue to supplement purses for dog and horse owners in a manner which will ensure the continuation and growth of the pari-mutuel racing industry in Iowa.

21.13(2) *Adequate security.* The commission will consider whether the racetrack enclosure provides adequate security for all aspects of its operation and for the people working and visiting the enclosure.

21.13(3) *Efficient, safe and enjoyable for patrons.* The commission will consider whether the proposed boat is planned in a manner which promotes efficient, safe, and enjoyable use by patrons including, but not limited to, parking facilities, concessions, the casino, access to cashier windows, and restrooms.

21.13(4) *Promote gaming industry.* The commission will consider whether the proposed operation would serve to promote the gaming industry in Iowa and provide high gaming integrity in Iowa.

21.13(5) *Employment opportunities.* The commission will consider the number and quality of employment opportunities for Iowans created and promoted by the proposed operation.

21.13(6) *Sale of Iowa products.* The commission will consider how the proposed operation will promote the development and sale of Iowa products.

21.13(7) *Miscellaneous.* The commission will consider such other factors as may arise in the circumstances presented by a particular application.

These rules are intended to implement Iowa Code chapters 99D and 99F.

[Filed 12/4/89, Notice 10/18/89—published 12/27/89, effective 1/31/90]

[Filed emergency 8/2/91—published 8/21/91, effective 8/2/91]

[Filed 12/6/91, Notice 10/16/91—published 12/25/91, effective 1/29/92]

[Filed emergency 5/20/94—published 6/8/94, effective 5/20/94]

[Filed 7/22/94, Notice 6/8/94—8/17/94, effective 9/21/94]

[Filed 1/23/96, Notice 12/6/95—published 2/14/96, effective 3/20/96]

[Filed 10/18/96, Notice 9/11/96—published 11/6/96, effective 12/11/96]